

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

PHILLIP SCOTT BAKER,)	
)	
Petitioner,)	
)	
v.)	1:16CV628
)	
DAVID MITCHELL, Superintendent)	
Lanesboro Correctional,)	
)	
Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on November 28, 2016, was served on the parties in this action. (ECF Nos. 9, 10). Petitioner objected to the Recommendation. (ECF No. 11).

The court has appropriately reviewed the portions of the Magistrate Judge's Recommendation to which objection was made and has made a *de novo* determination which is in accord with the Magistrate Judge's Recommendation. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Respondent's motion for summary judgment (ECF No. 4) be **GRANTED**, that the Petition (ECF No. 1) be **DENIED**, and that Judgment be entered dismissing this action. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This, the 20th day of January, 2017.

/s/ Loretta C. Biggs
United States District Judge